United Nations S/2001/842

Security Council

Distr.: General
5 September 2001

Original: English

Letter dated 4 September 2001 from the Chairman of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait addressed to the President of the Security Council

I have the honour to transmit herewith, pursuant to paragraph 6 of Security Council resolution 1330 (2000), a report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait on the implementation of the oil-for-food programme (see annex).

The report was approved by the Committee on 31 August 2001.

(*Signed*) Ole Peter **Kolby**
Chairman
Security Council Committee established
by resolution 661 (1990) concerning the
situation between Iraq and Kuwait

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Annex

Report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait on the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995)

I. Introduction

1. The present report is submitted to the Security Council pursuant to paragraph 6 of resolution 1330 (2000), in which the Committee was requested, in close consultation with the Secretary-General, to report to the Council prior to the end of the 180-day period after the entry into force of paragraph 1 of the above resolution on the implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995). In paragraph 1 of resolution 1330 (2000), the Council decided that the provisions of resolution 986 (1995), except those contained in paragraphs 4, 11 and 12 and subject to paragraph 15 of resolution 1284 (1999), would remain in force for a new period of 180 days beginning at 00:01 hours, Eastern Standard Time, on 6 December 2000. In resolution 1352 (2001), adopted on 1 June 2001, the Security Council decided to extend the provisions of resolution 1330 (2000) until 3 July 2001.

2. The present report, the sixteenth of its kind, covers the Committee's major activities with regard to the implementation of the above arrangements during phase IX of the oil-for-food programme from 6 December 2000 to 3 July 2001 when the extension period ended.

II. Sale of petroleum and petroleum products

3. From the beginning of phase IX until 3 July 2001 the export of petroleum from Iraq is clearly divided into three periods, the first period, when the export levels were low due in part to the decline in market prices, but predominantly to the reduced rate of Iraqi oil export, and the second period, when export levels returned to normal. Some 100 million barrels of crude oil export valued at some $2.5 billion have been lost as a result of erratic exports in the first period. During the third period exports were suspended by Iraq for about a month after the adoption of resolution 1352 (2001). During this period some $1.3 billion could have been generated in the oil revenue for Iraq.

4. The oil overseers continued to advise the Committee on oil pricing mechanisms, oil contract approval and amendments, management of revenue objectives and other pertinent questions related to export and monitoring under Security Council resolutions 986 (1995), 1175 (1998), 1242 (1999), and 1330 (2000). In this respect, the oil overseers submitted a comprehensive report on development in the contractual structure for Iraqi crude oil exports to the Committee.

5. During the current phase IX, two irregularities in the crude oil export operations have been detected and reported to the Committee by the oil overseers. Both cases involved potential loss of revenue to the United Nations Iraq account because of non-compliance with the authorized discharge destination. In order to

decrease the possibility of such deviations in the future, the oil overseers initiated the issuance of a notification to ships' masters, advising the authorized export destination. This commenced on 1 April 2001.

6. As at 3 July 2001, the oil overseers, on behalf of the Committee, approved 177 oil contracts involving purchasers from 45 countries. The total quantity of oil approved for export under those contracts corresponds to approximately 578 million barrels with an estimated value of euro 13.2 billion. However the contracted volume far exceeded the real export volume under phase IX, which was 292 million barrels, and the total revenue generated under phase IX is euro 6.668 billion, or $5.675 billion (before deduction of pipeline fees; at current prices and the current rate of exchange). The generated revenue is some $4 billion less than in the previous phase VIII, due to reasons set out in paragraph 3 above. All contracts submitted used the pricing mechanisms approved by the Committee, on the recommendation of the overseers.

7. As at 3 July 2001, 188 loadings, totalling 292 million barrels worth euro 6,668 million ($5,675 million, at the current rate of exchange) have been completed. Letters of credit opened for each of the loadings were reviewed and confirmed by the overseers to be in accordance with the terms and conditions of the approved contracts. About 35 per cent of the loadings were made at Ceyhan in Turkey.

8. The overseers have worked with the independent inspection agents (Saybolt Nederland BV) to ensure the effective monitoring of the relevant oil installations and the loadings. In this regard they have received the full cooperation of the Iraqi authorities.

9. Pursuant to paragraph 2 of the procedures of the Committee (S/1996/636), 871 national oil purchasers from 81 countries have been nominated, all of whom are authorized to communicate directly with the overseers.

10. Pursuant to paragraph 14 of the procedures of the Committee, the overseers have continued to report to it weekly on contracts considered by them regarding the sale of petroleum originating in Iraq, including the cumulative quantity and approximate value of petroleum authorized for export. As at 3 July 2001, 238 reports have been submitted to the Committee.

III. Humanitarian supplies to Iraq

11. As in previous phases, during phase IX, the Committee continued to attach high priority to the work of processing contracts for the supply of humanitarian goods to Iraq.

12. As at 30 June 2001, the Secretariat had received 2,650 applications under phase VIII for exports of humanitarian supplies to Iraq. Of that total, 65 were judged to be incomplete and non-compliant and 55 were judged to be inactive; 22 are still being processed; 79 were declared null and void; 864 were notified by the Secretariat and 1,565 have been circulated to Committee members for action. Of those sent to the Committee, 1,257 have been approved, totalling approximately $3.2 billion; 9 are still pending under the "no-objection" procedure and 299, with a total value of $1.31 billion, have been placed on hold. During phase IX, from the beginning of phase IX and up till 30 June 2001, the Secretariat received 1,103 applications for the export of humanitarian supplies to Iraq. Of that total, 4 were

declared null and void, 91 were deemed incomplete or non-compliant, 587 were notified by the Secretariat, 247 were circulated to Committee members for action and 174 are still being processed. Of those sent to the Committee for consideration, 172 have been approved, totalling approximately $522 million; 28 are still pending under the "no-objection" procedure and 47, with a total value of $230.6 million, have been placed on hold. During the reporting period, 892 applications were released from hold with a total value of $2,046,118,433. These figures correspond to all the applications (all phases) released from hold during the reporting period. From the beginning of the programme to 30 June 2001, 8,303 applications have been approved with a total value of $17,129,389,149. As of 30 June 2001, 889 applications are still on hold with a total value of $2,892,954,492.

13. Pursuant to paragraph 11 of Security Council resolution 1330 (2000), the Committee approved a number of expanded lists of humanitarian items submitted in accordance with paragraph 17 of resolution 1284 (1999) and paragraph 8 of resolution 1302 (2000). The lists of additional educational items, water and sanitation items and food-handling items were approved on 12 February 2001. The list of additional agricultural items was approved on 23 February 2001 and the list of additional items in the health sector was approved on 27 February 2001. Pursuant to paragraph 10 of Security Council resolution 1330 (2000), the Committee approved the list of basic or standard items for the housing sector on 27 February 2001. The list of items for the electricity sector under phase IX was also approved by the Committee on 24 May 2001. In accordance with the aforementioned resolutions, supplies of those items on the approved lists will not be submitted for the Committee's approval, except for items subject to the provisions of resolution 1051 (1996), the Secretary-General will be notified and they will be financed in accordance with the provisions of subparagraphs 8 (a) and (b) of resolution 986 (1995). Under phase IX, 330 contracts were notified, with a total value of $1.27 billion.

14. The work of goods-arrival-confirmation by the United Nations independent inspection agents (Cotecna) has continued according to the established procedures at the four entry points to Iraq at Al-Walid, Trebil, Umm Qasr and Zakho. As in previous phases, the Iraqi authorities have accorded the independent agents full cooperation in their work. From the start of the programme to 30 June 2001, approximately 7,400 consignments of humanitarian supplies from previous phases for the 59 per cent account, with a value of $12.5 billion, have been confirmed as having arrived in Iraq in total or in partial shipments.

15. In accordance with the recommendations contained in the letters of the Secretary-General to the President of the Security Council of 22 October 1999 (S/1999/1086) and 3 October 2000 (S/2000/950), members of the Committee continue reviewing humanitarian contracts placed on hold during the reporting period. Representatives from relevant United Nations agencies operating in Iraq and the Office of the Iraq Programme have briefed members of the Committee on those occasions.

IV. Matters relating to oil spare parts and equipment to Iraq

16. The Committee has made continuous efforts to expedite the approval of applications for oil spare parts and equipment required for the oil sector. Pursuant to

paragraph 18 of resolution 1284 (1999), the Security Council requested the Group of Experts appointed by the Committee to approve contracts for the parts and equipment referred to in paragraph 1 of resolution 1175 (1998). On 1 December 2000 the Committee approved an amended project-based list of oil spare parts and equipment for the Iraqi oil industry related to phase VIII. On 21 February 2001, the Committee received a new project-based list of oil spare parts and equipment for the Iraqi oil industry under phase IX. The list was approved with amendment on 25 May 2001.

17. During the period of the present report (phase IX) and up until 30 June 2001, the Secretariat received 87 applications related to the oil sector. From this total, one application was declared null and void, five were deemed incomplete or non-compliant, eight were notified by the Secretariat, nine were circulated to Committee members for action and 64 are still being processed. Of those sent to the Committee for consideration, one application has been approved, totalling approximately $3.58 million; three are still pending under the "no-objection" procedure and five applications, with a total value of $2.84 million, have been placed on hold.

18. From the beginning of the process to 30 June 2001, the total allocation for oil spare parts and equipment amounted to $3 billion. The number of applications received by the Committee for oil spare parts and equipment to Iraq under previous resolutions has reached a total of 3,871 with a value of $2.6 billion. Of these, 93 were judged to be incomplete or non-compliant and 30 were judged to be inactive; 3,086 were circulated to the members of the Committee for their consideration; a total of 137 were declared null and void, or cancelled, 1 was blocked and 180 are under active processing; a total of 345 were approved by the Office of the Iraq Programme. Of the 3,086 applications circulated, 2,643 have been approved, with a total value of $1.45 billion; 434 applications valued at $430,859,976 have been placed on hold and 9 applications are pending under the "no-objection" procedure. As at 30 June 2001, partial or complete deliveries of contracts for spare parts and equipment for the oil sector were made up to a value of some $792 million. During the reporting period, 285 such contracts were released from hold with a total value of $179,796,527. These figures correspond to all the applications (all phases) released from hold during the reporting period.

19. Members of the Committee have reviewed those contracts for oil spare parts and equipment that have been placed on hold and will continue to do so as necessary in the future, in accordance with the letters of the Secretary-General to the President of the Security Council (S/1999/1086 and S/2000/950).

V. Other activities

20. The Committee held 12 formal and frequent informal consultations at the expert level during the reporting period to discuss various issues related to the humanitarian situation in Iraq and the implementation of the oil-for-food programme.

21. The Committee has initiated a series of informal meetings on sectoral activities on a monthly basis, with presentation by the United Nations agencies and programmes concerned, as well as discussions on holds in each sector. The first meeting took place on 3 April 2001, at which the Committee received a briefing by the United Nations Centre for Human Settlements (Habitat) on the housing situation

in Iraq. On 4 May 2001, Committee members received a briefing by representatives of the International Telecommunication Union on the present situation concerning Iraq's telecommunications sector.

22. On 1 February 2001, members of the Committee received a briefing by the Secretariat on the payment mechanisms and commercial protection under the 53 per cent (or ESB) account. Discussions on the issues involved are still inconclusive.

23. On 19 March 2001, the Committee was briefed by the Secretariat on the diversification of banking services for the United Nations Iraq account. It was confirmed that a euro account had been opened with BNP Paribas.

24. The Secretariat brought to the attention of the Committee Iraq's delay in issuing visas to United Nations personnel to enter Iraq. The Committee, through a démarche and a subsequent letter to the Iraqi Government, reiterated the relevant provisions of the memorandum of understanding and urged Iraq to fulfil its obligations and expeditiously address that issue. During the reporting period, there was no subsequent change in the position of Iraq.

25. The discussion related to illegal oil surcharge, commission on humanitarian goods and port fees is still under way.

26. The Committee sent a letter, through the oil overseers, to the company Glencore International AG whose oil imports from Iraq had been found to be subject to irregularities. The Committee warned the company that all its future contracts would be scrutinized and that any irregularities would be brought to the immediate attention of the Committee. Meanwhile, the Committee requested the Swiss authorities to make an investigation of the company's activities and provide the results of the investigation to the Committee.

VI. Conclusions

27. The Committee will continue working closely with the Office of the Iraq Programme and all parties concerned to ensure the effective implementation of the arrangements in paragraphs 1, 2, 6, 8, 9 and 10 of resolution 986 (1995). As in the past, the Committee wishes to reiterate its appreciation to all parties concerned for their cooperation and contribution.